

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

WILLIAM BURPO

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
Kimmel & Silverman, P.C.  
30 E. Butler Pike  
Ambler, PA 19002  
(215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known) \_\_\_\_\_

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify) \_\_\_\_\_
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C SECTION 1692

Brief description of cause:  
Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

Explanation: \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

02/15/2013

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

WILLIAM BURPO	:	
	:	
v.	:	CIVIL ACTION
	:	
NCO FINANCIAL SYSTEMS, INC.	:	NO.
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

02/15/2013  
Date

Craig Thor Kimmel  
Attorney-at-law

Plaintiff, William Burpo  
Attorney for

215-540-8888  
Telephone

877-788-2864  
FAX Number

kimmel@creditlaw.com  
E-Mail Address

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 4812 Honeysuckle Drive, Balch Springs, TX 75180

Address of Defendant: 507 Prudential Road, Horsham, PA 10944

Place of Accident, Incident or Transaction: \_\_\_\_\_  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 02/15/2013

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 02/15/2013

Attorney-at-Law

57100

Attorney I.D.#

1                                   **IN THE UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **EASTERN DISTRICT OF PENNSYLVANIA**

4 WILLIAM BURPO,                                   )  
5                                   Plaintiff                                   )  
6                                   v.                                   ) **Case No.:**  
7 NCO FINANCIAL SYSTEMS, INC.,                                   ) **COMPLAINT AND DEMAND FOR**  
8                                   Defendant                                   ) **JURY TRIAL**  
9                                   ) **(Unlawful Debt Collection Practices)**

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10                                   **COMPLAINT**

11                   WILLIAM BURPO (“Plaintiff”), by and through his attorneys, KIMMEL &  
12 SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC.  
13 (“Defendant”):  
14

15                                   **INTRODUCTION**

16  
17           1.     Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15  
18 U.S.C. § 1692 *et seq.* (“FDCPA”), which prohibits debt collectors from engaging in abusive,  
19 deceptive, and unfair practices.  
20

21                                   **JURISDICTION AND VENUE**

22           2.     Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states  
23 that such actions may be brought and heard before “any appropriate United States district court  
24 without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original  
25 jurisdiction of all civil actions arising under the laws of the United States.

1           3.     Defendant conducts business and has its principal office in the Commonwealth of  
2 Pennsylvania, and therefore, personal jurisdiction is established.

3           4.     Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).  
4

5  
6                                   **PARTIES**

7           5.     Plaintiff is a natural person residing in Balch Springs, Texas 75180.

8           6.     Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C.  
9 §1692k(a), and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

10          7.     Defendant is a national debt collection company with its corporate headquarters  
11 located at 507 Prudential Road in Horsham, Pennsylvania, 19044.

12          8.     Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6),  
13 and repeatedly contacted Plaintiff in an attempt to collect a consumer debt of another person.

14          9.     Defendant acted through its agents, employees, officers, members, directors,  
15 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.  
16

17                                   **FACTUAL ALLEGATIONS**

18          10.    At all relevant times, Defendant was contacting Plaintiff in an attempt to collect  
19 an alleged consumer debt of another person.

20          11.    Upon information and belief, the alleged debt at issue arose out of transactions,  
21 which were primarily for personal, family, or household purposes.  
22

23          12.    Beginning in July 2012, and continuing through January 2013, Defendant  
24 continuously and repeatedly contacted Plaintiff on his home telephone in its attempts to collect a  
25 debt of another person, specifically, Plaintiff’s former daughter-in-law, LaTisha.

1           13. Plaintiff knew it was Defendant calling because he received numerous automated  
2 messages from these calls, wherein Defendant identified itself as "NCO Financial Systems."

3           14. Defendant called Plaintiff, on average, two (2) to three (3) times a day, on  
4 multiple days each week, during July 2012 through January 2013.

5           15. In those instances where Plaintiff answered the telephone, he heard Defendant's  
6 pre-recorded automated message, and it did not include an option to speak with a live person.

7           16. The option to speak with a live person was necessary for Plaintiff to notify  
8 Defendant that it was calling the wrong telephone number and that his former daughter-in-law,  
9 LaTisha, could not be reached using that number.

10           17. When calls came in that could not be answered, an automated pre-recorded  
11 message was placed on the answering machine which stated: "This is NCO Financial. We are a  
12 debt collector attempting to collect a debt. This message is for LaTisha...[...] Please return our  
13 call...[sic]."

14           18. Wanting to stop the messages and calls, Plaintiff called the telephone number  
15 heard in the voice message, at which time he was greeted by another pre-recorded message and  
16 followed the prompts to notify Defendant that it was calling the wrong number.

17           19. Defendant did not remove Plaintiff's phone number from its call queues or  
18 database after being notified, as calls continued to be received.

19           20. Plaintiff was frustrated, aggravated, annoyed and harassed by the calls, especially  
20 after taking the time to follow Defendant's touch tone phone directory menu that was supposed  
21 to stop the calls.

22           21. Defendant most recently called Plaintiff on January 21, 2013, a national holiday.

23           22. It was inconvenient for Plaintiff to be contacted on holidays, and it was  
24  
25

1 inconvenient to receive collection calls intended for another, during the week and on weekends.

2 23. Defendant was aware that it was contacting Plaintiff for the debts of another, if  
3 not before calls commenced, certainly afterwards.

4 24. Defendant was aware that the calls were unwanted and that it had been notified in  
5 its own preferred manner of the situation.

6 25. Defendant lacked procedures to ensure that the third party calls ceased, as  
7 evidenced by the fact that it was informed of on multiple occasions by Plaintiff, but continued to  
8 call him to collect the debt of another.  
9

10 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**  
11 **ACT**  
12 **COUNT I**

13 26. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §  
14 1692b(3).

15 a. Section 1692b(3) of the FDCPA prohibits a debt collector from  
16 communicating with any person other than a consumer more than once unless  
17 requested to do so by such person or unless the debt collector reasonably  
18 believes that the earlier response of such person is erroneous or incomplete  
19 and that such person now has correct or complete location information.

20 b. Here, Defendant violated §1692b(3) of the FDCPA by communicating with  
21 Plaintiff more than once about another person's debt, despite having been  
22 notified that it was calling the wrong person and that Plaintiff did not want to  
23 receive its collection calls.  
24

25 **COUNT II**

27. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692c(a)(1).

a. A debt collector violates §1692c(a)(1) of the FDCPA by communicating with the consumer at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer.

b. Here, Defendant violated §1692c(a)(1) of the FDCPA by calling Plaintiff on his home phone about a debt of another person, which was an inconvenient place for Plaintiff to receive collection calls.

### COUNT III

28. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692d and 1692d(5).

a. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequences of which is to harass, oppress or abuse any person in connection with the collection of a debt.

b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.

c. Defendant violated §§1692d and 1692d(5) of the FDCPA when it called Plaintiff approximately two (2) to three (3) times a day, including weekends and on a national holiday, with the intent to annoy, abuse and harass Plaintiff, as Plaintiff had informed Defendant on more than one occasion it was calling



1 the wrong person.

2  
3 **COUNT IV**

4 29. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.  
5 §1692f.

- 6 a. A debt collector violates §1692f of the FDCPA by using unfair or  
7 unconscionable means to collect or attempt to collect any debt.  
8  
9 b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair and  
10 unconscionable debt collection practices, including failing to update its  
11 records to stop calling Plaintiff, after being informed repeatedly that it was  
12 calling the wrong number.

13 WHEREFORE, Plaintiff, WILLIAM BURPO, respectfully prays for a judgment as  
14 follows:

- 15 a. All actual damages suffered pursuant to 15 U.S.C. §1692k(a)(1);  
16  
17 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant  
18 to 15 U.S.C. §1692k(a)(2)(A);  
19  
20 c. All reasonable attorneys' fees, witness fees, court costs and other litigation  
21 costs incurred by Plaintiff pursuant to 15 U.S.C. §1693k(a)(3); and  
22  
23 d. Any other relief deemed appropriate by this Honorable Court.

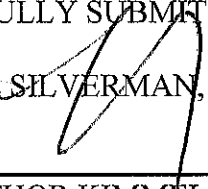
24 **DEMAND FOR JURY TRIAL**

25 PLEASE TAKE NOTICE that Plaintiff, WILLIAM BURPO, demands a jury trial in this  
case.

1  
2  
3  
4 DATED: 02/15/13  
5

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

By:   
CRAIG THOR KIMMEL  
PA Attorney Id. No. 57100  
30 E. Butler Pike  
Ambler, PA 19002  
Phone: (215) 540-8888 ext. 116  
Fax: (877) 788-2864  
Email: kimmel@creditlaw.com